



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, June 9, 2011

10:00 A. M.

Assembly Hearing Room #444
State Capitol
Sacramento, California 95814

Draft

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to the scheduled meeting, will not be included on the late document submittal list. The SMGB would accept a two-page written summary of testimony, or final comments based on, and limited to, review of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This

policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

I. Call to Order (Garner)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 10:40 A. M. by Chairman Garner, with Members Lund and Wyatt absent, thus no quorum was achieved.

IV. Director's Report (Chernow, Department of Conservation) [Information]

- State Geologist's Report (Parrish) [Information]
- Office of Mine Reclamation Report (Pompy) [Information]

V. Chairman's Report (Garner) [Information]

- Discussion of the Role of the State Mining and Geology Board and Recognition of Board Members Service to the State of California
This item was not discussed.

VI. Executive Officer's Report (Testa) [Information]

VII. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

VIII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

IX. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, March 10, 2011, Regular Business Meeting.
Continued.



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2. Approval of Minutes, May 12, 2011, Regular Business Meeting.
Continued.
3. Consideration of Revised Interim Financial Assurance, Richmond (Chevron) Quarry (91-07-0006), Dutra Materials (Operator), Aaron Johnson (Agent), City of Richmond.
Continued.
4. Approval of a Reclamation Plan, Financial Assurance Cost Estimate and Environmental Impact Report for Santa Paula Rock (91-56-00XX), Santa Paula Rock, Gravel & Sand, LLC (Operator), Al Bitetti (Agent), City of Santa Paula.
Continued.

X. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

XI. New Business [Action]

5. Approval of Proposed Agreement between the State Mining and Geology Board and the County of Alpine Pertaining to Lead Agency Status Pursuant to the Surface Mining and Reclamation Act.
Continued.
6. Issuance of an Order to Comply to the Big Cut Mine (CA Mine ID #91-09-00XX), Joseph and Yvette Hardesty and Rick Churches (Operator), Joseph and Yvette Hardesty and Rick Churches (Agent), County of El Dorado, for Failure to Correct Violations Pursuant to the Surface Mining and Reclamation Act.
Continued.
7. Acceptance of Mine Closure Inspection Report and Approval of Site Closure for Ella and Platter Borrow Sites (CA Mine ID #91-58-0026), Three Rivers Levee Improvement Authority (Operator), Paul Brunner (Agent), County of Yuba.
Continued.
8. Adoption of Regulatory Language for Designation of Mineral Resources Areas of Statewide or Regional Significance for the Bakersfield Production-Consumption Region, County of Kern, California.
Continued.
9. Information Report on the Annual Reporting Process Pursuant to the Surface Mining and Reclamation Act (SMARA) [OMR]
Continued
10. **Public Hearing:** Review of the Order of Administrative Penalties Assessed to Nine Surface Mining Operations Pursuant to Public Resources Code Section 2774.2 and Title 14, California Code of Regulations, Section 3900, et seq.
 - Public Hearing Case No. AP #91-03-0029-09-AR:
South Arkansas Creek (CA Mine ID #91-03-0029),
County of Amador



Continued.

- Public Hearing Case No. AP #91-15-0095-09-AR:
Sand Canyon Pit (CA Mine ID #91-15-0095), Kern
County

Continued.

- Public Hearing Case No. AP #91-18-0047-09-AR:
Pozzolan Hill Pit (CA Mine ID #91-18-0047), Lassen
County

Continued.

- Public Hearing Case No. AP #91-23-0033-09-AR:
McKenzie Mine (CA Mine ID #91-23-0033), Mendocino
County

Continued.

- Public Hearing Case No. AP #91-32-0033-09-AR:
CBS Aggregates (CA Mine ID #91-32-0033), Plumas
County

Continued.

- Public Hearing Case No. AP #91-33-0042-09-AR:
Shamrock Sand & Gravel (CA Mine ID #91-33-0042),
County of Riverside

Continued.

- Public Hearing Case No. AP #91-36-0074-09-AR:
K-1 Pit (CA Mine ID 91-36-0074), San Bernardino
County

Continued.

- Public Hearing Case No. AP #91-47-0053-09-AR:
Lor O (CA Mine ID #91-47-0053), Siskiyou County

Continued.

XII. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

11. Information Report from the County of Santa Clara for the Hansen Permanente Cement Quarry, Lehigh Southwest Cement Company (Operator), Scott Renfrew (Agent), County of Santa Clara, and Department of Conservation, Office of Mine Reclamation.

Executive Officer Testa stated that its January 13, 2011, meeting, the SMGB Policy and Legislation Committee (Committee) received comments from the public pertaining to compliance issues related to the Lehigh Southwest Cement Company surface mining operation (CA Mine ID #91-43-0004), located in the County of Santa Clara (County). After hearing comments from the Department, County. Public and operator, the Committee requested that a progress report be provided to the whole SMGB on the County's overall SMARA program, the operator's efforts to comply with SMARA



and the SMGB's regulations, and the Department of Conservation Office of Mine Reclamation (OMR) in regards to its oversight of the surface mining operation and any outstanding compliance issues. At its February 10, 2011, regular business meeting, information reports from the County, Operator and OMR, were heard by the SMGB. Several non-compliance issues were raised. The SMGB subsequently requested that OMR and the County provide a progress report. The information being presented by OMR and the County is for the SMGB's information. No recommendations were offered by the Executive Officer at this time

- Gary Rudholm, Senior Planner with the County of Santa Clara, stated that the reclamation strategy has been changed which will cause the environmental documents to be revised.
- Marvin Howell, Director of Land Use Planning for Lehigh Hansen, summarized the changes in moving forward with an amended reclamation plan and environmental documents, and overall status.
- Stuart Flashman, Attorney with No Toxic Air Inc., and Gary Latshaw, Sierra Club Committee Volunteer representing himself, expressed concern over dumping of overburden. Public members included Rhoda Fry, John Lee and Linda Sell, expressed similar concern and requested that the operator be removed from the AB 30987 List reflecting non-compliance for over 10 years, landslide issues and air quality considerations.
- Barry Chang, City of Cupertino City Council Member representing himself, noted out of compliance issues and requested that the operator be removed from the AB 3098 List, and that the SMGB consider holding a workshop on proposed new AB 3098 regulatory language within the jurisdiction of the County or City of Cupertino.

The SMGB indicated that no action was to be taken due to lack of a quorum; however, an update was requested for later in July.

12. Information Report from the California Geological Survey on the March 11, 2011 M 9.0 Tohoku Earthquake, and the Resultant Tsunami on California.

Executive Officer Testa indicated that the magnitude (M) 9.0 Tōhoku Earthquake of March 11, 2011, and associated tsunami was the fourth most powerful earthquake measured by modern instruments (since about the year 1900), occurring at the interface of the Pacific and North America plates. Two days prior to the earthquake, a M 7.2 earthquake occurred near what would be the epicenter of the Tohoku Earthquake. It was followed by three aftershocks in the M 6 range later that day. These earthquakes were reported to the SMGB at its regular business meeting on March 10th, with the indication that these could be precursors of further action along the Japan Trench. In retrospect, these earthquakes were foreshocks to the M 9.0 event that followed. An overview of this historic event and its impact on California was presented by Mr. Chuck Real with the California Geological Survey (CGS).

13. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the County of Alameda.

Executive Officer Testa stated that in 2006, SMGB staff completed a review of lead agency performance under SMARA, and in 2007 published on its website Information Report IR 2006-07 titled "*Report on SMARA Lead Agency Performance Regarding Mine Reclamation.*" In 2007, DOC OMR established the Lead Agency Review Team (LART). An overview of the LART program was previously presented to the SMGB in July 2009. OMR LART has completed its review of the County of Alameda SMARA program.



Continued.

14. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the County of Mono.

Executive Officer Testa stated that OMR Lead Agency Review Team (LART) has completed its review of the County of Mono SMARA program.

- Scott Burns, County of Mono Community Development Director, and Nick Chris, County of Mono Compliance Officer, were available for questions.

Continued.

15. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the City of Truckee.

Executive Officer Testa stated that OMR Lead Agency Review Team (LART) has completed its review of the City of Truckee SMARA program.

Continued.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee
 - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Tepel)
- Policy and Legislation Committee (Chairperson Baca)

XIV. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

XV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

XVI. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
- d). A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.



- e). William Calvert, Elfriede Calvert and the Yuba Goldfields Access Coalition v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000530, Sacramento County Superior Court.
- f). North Continent Land and Timber, Inc. vs. SMGB, Department of Conservation, Office of Mine Reclamation, County of Butte Board of Supervisors, Case No. 34-2010-800000542, Sacramento County Superior Court.
- g). Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
- h). An un-named case where there is potentially significant exposure to litigation against the SMGB.

Re-open Regular Business Session, Announce Results of Executive Session

Deputy Attorney Marion Moe announced that the SMGB met in Executive session and no action was taken.

XVII. Announcements of Future Meetings

June 16, 2011, was announced as the next meeting, and Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 1:30 P.M.

APPROVED

Erin Garner, Chairman

Stephen M. Testa, Executive Officer

